



Customs and Excise Management Act 1979

1979 CHAPTER 2

PART XII **U.K.**

GENERAL AND MISCELLANEOUS

General powers, etc.

164 **Power to search persons.** **U.K.**

- (1) Where there are reasonable grounds to suspect that any person to whom this section applies [^{F1}(referred to in this section as “the suspect”)] is carrying any article—
- which is chargeable with any duty which has not been paid or secured; or
 - with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment.

[^{F2}an officer may exercise the powers conferred by subsection (2) below and, if the suspect is not under arrest, may detain him for so long as may be necessary for the exercise of those powers and (where applicable) the exercise of the rights conferred by subsection (3) below].

[^{F3}(2) The officer may require the suspect—

- to permit such a search of any article which he has with him; and
- subject to subsection (3) below, to submit to such searches of his person, whether rub-down, strip or intimate,

as the officer may consider necessary or expedient; but no such requirement may be imposed under paragraph (b) above without the officer informing the suspect of the effect of subsection (3) below.

- (3) If the suspect is required to submit to a search of his person, he may require to be taken—

Changes to legislation: Customs and Excise Management Act 1979, Section 164 is up to date with all changes known to be in force on or before 19 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) except in the case of a rub-down search, before a justice of the peace or a superior of the officer concerned; and
 - (b) in the excepted case, before such a superior;
- and the justice or superior shall consider the grounds for suspicion and direct accordingly whether the suspect is to submit to the search.
- (3A) A rub-down or strip search shall not be carried out except by a person of the same sex as the suspect; and an intimate search shall not be carried out except by a suitably qualified person.]
- (4) This section applies to the following persons, namely—
- (a) any person who is on board or has landed from any ship or aircraft;
 - (b) any person entering or about to leave the United Kingdom;
 - (c) any person within the dock area of a port;
 - (d) any person at a [^{F4}regulated aerodrome];
 - [^{F5}(da) any person in, entering or leaving a railway customs area;
 - (db) any person who is on board a railway vehicle which—
 - (i) is in a railway customs area,
 - (ii) has entered the United Kingdom but has not yet arrived at a railway customs area in the course of its journey, or
 - (iii) has left a railway customs area and has not yet left the United Kingdom in the course of its journey;]
 - (e) any person in, entering or leaving any approved wharf or [^{F6}temporary storage facility] which is not in a port;
 - [^{F7}(ee) any person in, entering or leaving a free zone;]
 - (f) in Northern Ireland, any person travelling from or to any place which is on or beyond the boundary.
- [^{F8}(5) In this section—
- “intimate search” means any search which involves a physical examination (that is, an examination which is more than simply a visual examination) of a person’s body orifices;
- “rub-down search” means any search which is neither an intimate search nor a strip search;
- “strip search” means any search which is not an intimate search but which involves the removal of an article of clothing which—
- (a) is being worn (wholly or partly) on the trunk; and
 - (b) is being so worn either next to the skin or next to an article of underwear;
- “suitably qualified person” means a registered medical practitioner or a registered nurse.
- (6) Notwithstanding anything in subsection (4) of section 48 of the Criminal Justice (Scotland) Act ^{M1}1987 (detention and questioning by customs officers), detention of the suspect under subsection (1) above shall not prevent his subsequent detention under subsection (1) of that section.]

Textual Amendments

F1 Words inserted by [Finance Act 1988 \(c. 39, SIF 40:1\)](#), [s. 10\(1\)\(a\)\(b\)](#)

F2 Words substituted by [Finance Act 1988 \(c. 39, SIF 40:1\)](#), [s. 10\(1\)\(a\)\(b\)](#)

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- F3** S. 164(2)–(3A) substituted for s. 164(2)(3) by Finance Act 1988 (c. 39, SIF 40:1), **s. 10(2)**
- F4** Words in s. 164(4)(d) substituted (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), **s. 340(3)(f)**
- F5** S. 164(4)(da)(db) inserted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), **Sch. 7 para. 112(a)** (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F6** Words in s. 164(4)(e) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), **Sch. 7 para. 112(b)** (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F7** S. 164(4)(ee) inserted by Finance Act 1984 (c. 43, SIF 40:1), s. 8, **Sch. 4 para. 6**
- F8** S. 164(5)(6) inserted by Finance Act 1988 (c. 39, SIF 40:1), **s. 10(3)**

Modifications etc. (not altering text)

- C1** S. 164 amended by S.I. 1990/2167, art. 4, **Sch. para. 25**
- C2** S. 164 restricted (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), **s. 4(1)(3)(h)(6)**.
- C3** S. 164 applied (26.5.2016) by Psychoactive Substances Act 2016 (c. 2), **ss. 55(1)**, 63(2); S.I. 2016/553, reg. 2

Marginal Citations

- M1** 1987 c. 41(**39:1**).

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 95(1A)(1B) inserted by [2023 c. 30 s. 110\(2\)](#)
- s. 119(7) inserted by [S.I. 2022/109 reg. 2\(3\)\(f\)](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 160(2A) inserted by [2023 c. 30 Sch. 13 para. 26\(3\)](#)